

1 BILL NO. S-86-08-16

2 SPECIAL ORDINANCE NO. S-

3 AN ORDINANCE approving the Contract
4 for Resolution #6048-86 - Headwall &
5 Backwater Gate at Gruber Ditch,
6 between the City of Fort Wayne,
7 Indiana and John Dehner, Inc.,
8 in connection with the Board of
9 Public Works and Safety.

10 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
11 OF THE CITY OF FORT WAYNE, INDIANA:

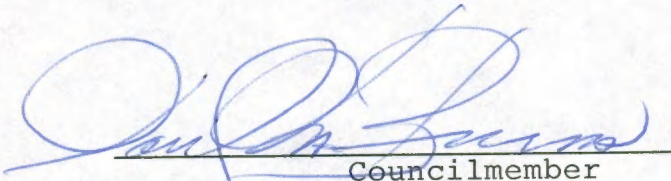
12 SECTION 1. That the annexed Contract for Resolution
13 #6048-86 - Headwall & Backwater Gate at Gruber Ditch, between
14 the City of Fort Wayne and John Dehner, Inc., by and through
15 its Board of Public Works and Safety, is hereby ratified, and
16 affirmed and approved in all respects. The work under said Contract
17 requires:

18 the construction of Headwall and
19 Backwater Gate at Gruber Ditch
20 in Vesey Avenue Addition;

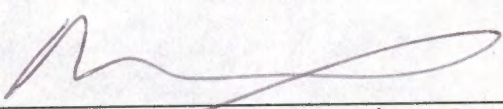
21 the Contract price is Twenty Thousand Six Hundred Ninety-Five
22 and 50/100 Dollars (\$20,695.50).

23 SECTION 2. Prior Approval was requested from Common
24 Council with respect to this Contract, on August 12, 1986. Two
25 (2) copies of the Contract, attached hereto, are on file with
26 the City Clerk, and are made available for public inspection,
27 according to law.

28 SECTION 3. That this Ordinance shall be in full force
29 and effect from and after its passage and any and all necessary
30 approval by the Mayor.

31 
32 Councilmember

33 APPROVED AS TO FORM
34 AND LEGALITY

35 
36 Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Burns, seconded by Bradbury, and duly adopted, read the second time by title and referred to the Committee City of Fort Wayne (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ .M., E.

DATE: 8-12-86

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Burns, seconded by Bradbury, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 8-26-86

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ (APPROPRIATION) ~~(GENERAL)~~ (SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. J-143-86 on the 26th day of August, 1986,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of August, 1986, at the hour of 11:00 o'clock PM .M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of August, 1986, at the hour of 2:00 o'clock P .M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

CONTENTS

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

B.O.W. Non-Fed. *Note: Award will be made on this form

ESTIMATE OF QUANTITIES

DATE:

MAY 27, 1986

PROJ: GRUBER DITCH HEADWALL

RES. NO: 6048-86

ITEM NO.	ITEM	QUANTITY	UNIT	UNIT COST (\$)	AMOUNT (\$)
1	CLEARING & GRUBBING	2226	S.Y.	0.50	1113.00
2	COMMON EXCAVATION (DITCH BOTTON)	30	C.Y.	3.00	90.00
3	REMOVE & REPLACE CHAIN LINK FENCE	50	L.F.	3.00	150.00
4	CLAY BORROW	1610	C.Y.	6.00	9660.00
5	RIP RAP	10	TON	10.00	100.00
6	PIPE CLASS IV 48"	75	L.F.	10.00	750.00
7	FORM CONCRETE FOR HEADWALL	38	C.U.	135.00	5130.00
8	STEEL REINFORCEMENT FOR HEADWALL	2227	LB.	0.92	2048.84
9	FLAP GATE 48"	1	EA.	700.00	700.00
10	TRASH RACK	1	EA	2000.00	2000.00
11	FINE GRADING FERTZ. MALCH & SEEDIN	2400	S.Y.	0.30	720.00
					0.00

SUBTOTAL: \$22,461.84

E&I: \$2,246.18

TOTAL: \$24,708.02

	ALTERNATE # 1				0.00
12	DRIVING " H " PILE	150	L.F.	40.00	6000.00

Minority Business Enterprise (MBE) is a business of which at least 51% is owned and controlled by minority group members. ("Minority" means Black, Hispanic, American Indian, Asian, Pacific Islander, and Alaskan Native). The minority owners must exercise actual day-to-day management, as well as actively participate in management and policy decisions affecting the business. The contribution of capital, equipment or expertise made by the minority owners must be real, substantiated and documented.

Women Business Enterprise (WBE) is a business of which at least 51% is owned and controlled by women. The women owners must exercise actual day-to-day management, as well as actively participate in management and policy decisions affecting the business. The contribution of capital, equipment or expertise made by the women owners must be real, substantiated and documented.

The contract for which this proposal/bid is prepared is governed by the MBE/WBE Ordinance. This form must be completed in order to be responsive to this IFB/RFP. If the participation goal of 7% for MBE and 2% for WBE are not met or exceeded in your bid or proposal, the reasons for this failure and reasonableness and good faith of efforts to meet this goal shall be evaluated in determining whether the bidder/offeror is responsible.

A list of possible MBE/WBE contractors/suppliers are on file in the Compliance Office, Room 800, City-County Building, for Contractor review.

THE FOLLOWING IS THE UNDERSIGNED'S COMMITMENT TO THE MBE/WBE GOALS OF THE CITY FOR WORK DONE PURSUANT TO THIS CONTRACT:

- A. N/A The undersigned firm certifies that it is an MBE/WBE Contractor (cross out inapplicable provision).

For MBE specify percentage of minority ownership
_____ %.

For WBE specify percentage of women ownership
_____ %.

- B. N/A The undersigned certifies that they are a joint venture in which the following (MBE/WBE) firm _____ (cross out inapplicable provision) is a joint venture partner.

The MBE/WBE firm (cross out inapplicable provision) shall have _____% participation (employees) _____% participation (costs) in this project.

Specify the percentage of minority/women ownership in the MBE/WBE firm _____. (cross out inapplicable provision)

- C. The undersigned commits 7 % of the total bid price as a subcontract to minority business enterprise participation. The MBE firms which are proposed as subcontractors are the following:

<u>Name of Firm</u>	<u>Address</u>	<u>Type of Work</u>
1. Copeland Trucking Co.	Ft. Wayne, In.	Hauling
2.		
3.		

- D. The undersigned commits 2 % of the total bid price as a subcontract to women business enterprise participation. The WBE firms which are proposed as subcontractors are the following:

<u>Name of Firm</u>	<u>Address</u>	<u>Type of Work</u>
1. Statewide Trucking Co.	Ft. Wayne, In.	Hauling
2.		
3.		

- E. Complete (1) and (2) below if participation goals of 7% MBE and 2% WBE have not been met.

1. My Company cannot meet the participation goals for the following reasons: _____

2. We have taken the following steps in an attempt to comply with these participation goals: _____

(attach additional sheets as necessary)

Contractor JOHN DEHNER, INC.

Contractor _____

By Gregory Dehner

By _____

Its Vice-President

Its _____

14. Minority/Female Hourly Employment Requirements.

The City's policy is to encourage a greater utilization of minority and/or female employees in City construction projects. The Board has, therefore, adopted a minimum goal of 17% of the total work hours on each project to be expended by minority and/or female employees. ("Minority" shall include: Blacks, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native.)

The bidder shall state in "A" below the percentage of total work hours which the bidder and his subcontractors will employ and utilize women and minority employees on this project. If a contract is awarded as a result of this bid, the percentage figure set forth in "A" shall become contractually binding on the bidder. The successful bidder will also be required to prepare reports for the City demonstrating compliance with this percentage and will allow city officials access to his records, facilities and work site and to those of his subcontractors to determine compliance.

The bidder must fill in the required blanks in this clause in order to be responsive to this IFB. If the bidder does not meet or exceed the hourly utilization goal of 17% minority/female participation, the reasons for this failure and reasonableness and good faith of efforts to meet this goal shall be evaluated to determine whether the bidder is responsible.

THE FOLLOWING IS THE UNDERSIGNED'S COMMITMENT TO MINORITY/FEMALE HOURLY UTILIZATION.

A. The undersigned firm certifies that it will employ and utilize minorities and females and/or will ensure that its subcontractors employ and utilize minorities and females so that minorities and females will work at least 17% of the total hours worked on this project.

B. Complete (1) and (2) below if the hourly utilization figure set forth in "A" is less than 17%.

1. My Company and its subcontractors cannot meet the 17% minimum hourly utilization figure for the following reasons: _____

_____.

2. My Company has taken the following steps in an attempt to comply with the 17% hourly utilization figure:

(attach additional sheets if necessary)

Contractor JOHN DEHNER, INC.
By *Gregory Dehner*
Its Gregory Dehner
Vice-President

15. Required Prevailing Wage Schedule Payments - Pursuant to Indiana Code 5-16-7-1. All contractors and subcontractors working on the project awarded pursuant to this contract shall pay the prevailing wage rates for skilled, semi-skilled and unskilled laborers, workmen and mechanics. This wage determination has been made in accordance with the procedures set forth in Indiana Code 5-16-7-1. This determination and the required wage rates are available for examination by any prospective bidder at The Board of Public Works and Safety, 9th Floor, City-County Building, Fort Wayne, Indiana.

If a bidder is awarded a contract as a result of this Invitation for Bids, he/she/it shall file a schedule of wages, on forms provided by the City of Fort Wayne, demonstrating compliance with the wage rate determination. The successful prime contractor shall be responsible for obtaining schedules from all subcontractors. All schedules shall be filed before the contractor commences any work on the project.

Penalties for failure to pay the prevailing wage rate are set forth in Indiana Code 5-16-7-3.

16. Site Orientation. A site orientation (~~will~~/will not) be conducted by the City Engineers. If such an orientation is conducted, it will be held on the ___ day of ___, 19___, commencing at ___ o'clock __.M. at the site of the project.

Regardless of whether a site orientation is conducted or not, bidders are required to visit the site of the work, and inform themselves fully of the conditions, under which the work will be performed. The bidders shall be responsible for all conditions that affect the work, including, but not limited to all sub-surface conditions.

SCHEDULE

Board of Public Works and Safety

The contractor agrees to furnish at his/her/its own cost all labor, insurance, materials, equipment, and power for the complete performance of the following project:

RESOLUTION NO. 6048-86 HEADWALL AND BACKWATER GATE AT GRUBER DITCH

All work will be performed in accordance with: Resolution # 6048-86 the IFB, this contract and the applicable plans, specifications, and drawings for a TOTAL PRICE of \$ -----. (If unit prices are applicable, the contractor agrees to perform for those unit prices as set forth in the Schedule of Unit Prices attached hereto).

The work shall be commenced within ten (10) days after The Board issues a written notice to proceed. All work shall be completed within 10/1/86 days after issuance of the notice to proceed. Those days which the contractor cannot work because of severely inclement weather shall not be counted.

☒ Liquidated Damages Provision. (This clause shall be applicable to this contract only if the box contains a checkmark or an "X".) It is hereby agreed by and between the City of Fort Wayne and Contractor that time is of the essence of this agreement and the contractor agrees that it will complete the project as herein defined on or before 10/1/86 days after issuance of the notice to proceed. The parties agree that it is a business and governmental necessity that the project be completed by this date, that it will be difficult or impossible to make an accurate determination of the damages that would be incurred by the City of Fort Wayne, and therefore provide for liquidated damages in the sum of \$ 250.00 per day for each and every day after 10/1/86 days after issuance of the notice to proceed that the project remains uncompleted. The parties agree that the sum of \$ 250.00 per day is a reasonable estimate as to the damages which would be incurred by the City of Fort Wayne. The parties further agree that causes beyond the control of the contractor may delay the completion date. Therefore, the parties agree that delays in the completion date beyond the control of the contractor shall not result in liquidated damages.

Delays beyond the control of the contractor can include but are not necessarily limited to, the following: Acts of God, strikes, lockouts or industrial disturbances, acts of public enemies, restraining orders of any kind by the government of the United States of America or of the State of Indiana or any of their departments, agencies, or officials, or any civil or military authority, insurrections, riots, landslides, earthquakes, fires, incapacitating storms, floods, and explosions.

NON-COLLUSION AFFIDAVIT

The Bidder, by its officers and

agents or representatives present at the time of filing this bid, being duly sworn on their oaths, say that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other bidder, or with any public officer of such City of Fort Wayne, Indiana, whereby such affiant or affiants or either of them, has paid or is to pay to such other bidder or public officer any sum of money, or has given or is to give such bidder or public officer anything of value whatever, or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other bidder of bidders, which tends to or does lessen or destroy free competition in the letting of the contract sought for by the attached bids, that no inducement of any form or character other than that which appears upon the face of the bid will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the said bid or awarding of the contract, nor has this bidder any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the contract sought by this bid.

Gregory Delmon

Subscribed and sworn to before me by Gregory Dehner, Vice-President of John Dehner, Inc.
this 25th day of June, 1986.

My Commission Expires:

September 8, 1987

Richard E. Ensley
Notary Public Richard E. Ensley
Resident of Allen County, IN

Subscribed and sworn to before me by _____
this _____ day of _____, 19____

My Commission Expires:

Notary Public
Resident of _____ County, IN

Subscribed and sworn to before me by _____
this _____ day of _____, 19 _____

My Commission Expires:

Notary Public
Resident of _____ County, IN

Contract No.

TO BE EXECUTED BY BIDDER AND SURETY COMPANY BEFORE DEPOSITING BID:

BIDDER'S BOND

Know All Men by These Presents:

That WE, JOHN DEHNER, INC. as principal
and UNITED STATES FIDELITY AND GUARANTY COMPANY

and _____ as sureties,
are held and firmly bound unto the City of Fort Wayne, Indiana, in the sum
of FIVE PERCENT OF THE TOTAL PROJECT BID DOLLARS (\$ 5% of Total Bid),

to be paid to the said City of Fort Wayne, Indiana, or its successors or
assigns, for the payment of which, well and truly made, we hereby bind our-
selves, our heirs, successors, executors and administrators, jointly and
severally, firmly by these presents.

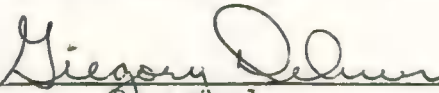
Signed and sealed at Fort Wayne, Indiana, this 25th
day of June, 19 86.

The condition of this obligation is such that if the accompanying bid or
proposal of JOHN DEHNER, INC.

made this day to the City of Fort Wayne, State of Indiana, is accepted, and the
contract awarded to the above bidder, and the bidder shall, within ten (10) days
after such award is made, enter into a contract with the City of Fort Wayne,
State of Indiana, for the work bid upon, and give bond as required; then this
obligation shall be null and void; otherwise, it shall remain in full force and
effect.

SIGNED at Fort Wayne, Indiana
this 25th day of June, 19 86.

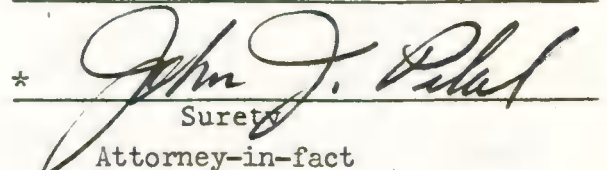
JOHN DEHNER, INC.


Principal

Gregory Dehner - Vice-President

*If signed by an agent appropriate power
of attorney shall be attached

UNITED STATES FIDELITY & GUARANTY CO.

* 
Surety
Attorney-in-fact

Contract No.

CERTIFICATE IN LIEU OF FINANCIAL STATEMENT

I, Gregory Dehner, the _____
(name)

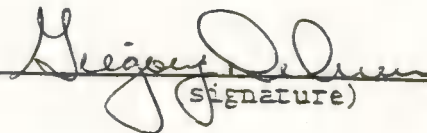
Vice-President of JOHN DEHNER, INC.
(position) (company)

hereby certify:

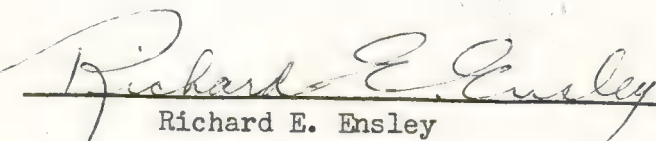
(1) That the Financial Statement of said company, dated the 31st
day of December, 1985, now on file in the office of the Board of
Public Works of the City of Fort Wayne, Indiana, which Financial Statement is by
reference incorporated herein and made a part hereof, is a true and correct
statement and accurately reflects the financial condition of said company as of
the date hereof;

(2) That I am familiar with the books of said company showing its financial
condition and am authorized to make this certificate on its behalf.

Dated: June 25, 1986


(signature)

SUBSCRIBED AND SWORN TO before me, a Notary Public, in and for said
County and State, this 25th day of June, 19 86.


Richard E. Ensley

My commission expires:

September 8, 1987

CERTIFICATION OF BIDDER/VENDOR

The undersigned, on behalf of JOHN DEHNER, INC.
_____, does hereby make the following representations
to the City of Fort Wayne, Indiana.

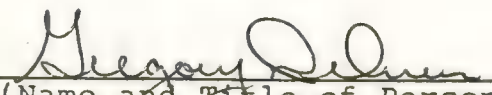
WHEREAS, it is acknowledged that the Common Council
of the City of Fort Wayne, Indiana, has passed an ordinance con-
demning the apartheid policies of the country of South Africa;

WHEREAS, Council's ordinance requires that all persons,
firms or corporations submitting bids to the City, for goods and
services, certify, as part of the bid, that such entity does not
support the policies of apartheid in South Africa.

The undersigned states, on behalf of JOHN DEHNER, INC.
_____, that JOHN DEHNER, INC.
does not support or endorse the policy of apartheid in South Africa.

IN WITNESS WHEREOF, this Certification has been signed
this 25th day of JUNE, 19 86.

JOHN DEHNER, INC.
(Name of Bidder/Vendor)


(Name and Title of Person Signing)
Gregory Dehner - Vice-President

CERTIFIED COPY

GENERAL POWER OF ATTORNEY

No. 97796

Know all Men by these Presents:

That UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, and having its principal office at the City of Baltimore, in the State of Maryland, does hereby constitute and appoint Gerald A. Dahle, John J. Pikel, Donald T. Belbutowski and Diane T. Green

of the City of Fort Wayne, State of Indiana,
its true and lawful attorneys in and for the State of Indiana

for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said UNITED STATES FIDELITY AND GUARANTY COMPANY, through us, its Board of Directors, hereby ratifies and confirms all and whatsoever ~~done~~ anyone of the said Gerald A. Dahle and the said John J. Pikel and the said Donald T. Belbutowski and the said Diane T. Green

may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said UNITED STATES FIDELITY AND GUARANTY COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its Vice-President and Assistant Secretary, this 27th day of November, A. D. 1985

UNITED STATES FIDELITY AND GUARANTY COMPANY.

(Signed) By W. Bradley Wallace
Vice-President.

(SEAL) (Signed) John A. Umberger
Assistant Secretary.

STATE OF MARYLAND. }
BALTIMORE CITY, } ss:

On this 27th day of November, A. D. 1985, before me personally came W. Bradley Wallace, Vice-President of the UNITED STATES FIDELITY AND GUARANTY COMPANY and John A. Umberger, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said that they, the said W. Bradley Wallace and John A. Umberger were respectively the Vice-President and the Assistant Secretary of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order as Vice-President and Assistant Secretary, respectively, of the Company.

My commission expires the first day in July, A. D. 1986.

(SEAL) (Signed) Margaret M. Hurst
Notary Public.

STATE OF MARYLAND }
BALTIMORE CITY, } Sgt.

I, Sandra E. Banks, Clerk of the Circuit Court for Baltimore City, which Court is a Court of Record, and has a seal, do hereby certify that Margaret M. Hurst, Esquire, before whom the annexed affidavits were made, and who has thereto subscribed his name, was at the time of so doing a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and sworn and authorized by law to administer oaths and take acknowledgment, or proof of deeds to be recorded therein. I further certify that I am acquainted with the handwriting of the said Notary, and verily believe the signature to be his genuine signature.

In Testimony Whereof, I hereto set my hand and affix the seal of the Circuit Court for Baltimore City, the same being a Court of Record, this 27th day of November, A. D. 1985
(SEAL) (Signed) Sandra E. Banks
Clerk of the Circuit Court for Baltimore City.

UNITED STATES FIDELITY AND GUARANTY COMPANY

FIDELITY AND
GUARANTY
BALTIMORE, MARYLAND
(A Stock Company)

PERFORMANCE BOND

Approved by The American Institute of Architects
A. I. A. Document No. A-311 (February 1970 Edition)

BOND NUMBER.....

KNOW ALL MEN BY THESE PRESENTS:

That JOHN DEHNER, INC.

..... as Principal,
hereinafter called Contractor, and UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws
of the State of Maryland, Baltimore, Maryland, as Surety, hereinafter called Surety, are held and firmly bound unto
City of Fort Wayne, Indiana, by and through its Board of Public Works & Safety

as Oblige, hereinafter called Owner, in the amount of

Twenty Thousand, Six Hundred Ninety Five and 50/100----- Dollars (\$20,695.50),
for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated August 6, 1986, entered into a contract with Owner for

Res. 6048-86 for the construction of Headwall and Backwater Gate,
Harber Ditch

in accordance with drawings and specifications prepared by Water Pollution Control Department, City
of Fort Wayne (Here insert full name, title and address), which contract is by reference made a part
hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform
said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations
thereunder, the Surety may promptly remedy the default, or shall promptly

- (1) Complete the Contract in accordance with its terms and conditions, or
- (2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the
Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or
the heirs, executors, administrators or successors of the Owner.

Signed and sealed this 6th day of August, 1986

In the presence of

RE Enley
(Witness)

Carle J. Bunha
(Witness)

JOHN DEHNER, INC.

By

Gregory Dehner

(Seal)
Principal

UNITED STATES FIDELITY AND GUARANTY COMPANY

By

Gerald G. Wahle
Attorney-in-Fact (Seal)

UNITED STATES FIDELITY AND GUARANTY COMPANY



(A Stock Company)

LABOR AND MATERIAL PAYMENT BOND

Approved by The American Institute of Architects

A. I. A. Document No. A-311 (February 1970 Edition)

KNOW ALL MEN BY THESE PRESENTS:

BOND NUMBER

That JOHN DEHNER, INC.

..... as Principal,
hereinafter called Principal, and UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, Baltimore, Maryland as Surety, hereinafter called Surety, are held and firmly bound unto City of Fort Wayne, Indiana, by and through its Board of Public Works & Safety as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of Twenty Thousand, Six Hundred Ninety Five and 50/100----- Dollars (\$ 20,695.50), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated August 6, 19 86, entered into a contract with Owner for Res. 6048-86 for the construction of Headwall and Backwater Gate, Harbor Ditch in accordance with drawings and specifications prepared by Water Pollution Control Department, City (Here insert full name, title and address)

of Fort Wayne which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

- (1) A claimant is defined as one having a direct contract with the Principal or with a sub-contractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
- (2) The above-named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.
- (3) No suit or action shall be commenced hereunder by any claimant,
 - (a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
 - (b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
 - (c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.
- (4) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this 6th day of August, 19 86

RE Kusley
(Witness)

JOHN DEHNER, INC.

By Gregory Dehner

(Seal)
Principal

Carol J. Chutkan
(Witness)

By Gerald A. Dohle

UNITED STATES FIDELITY AND GUARANTY COMPANY
Attorney-in-Fact (Seal)

This bond is issued simultaneously with performance bond in favor of the Owner conditioned on the full and faithful performance of the Contract.

CERTIFIED COPY
GENERAL POWER OF ATTORNEY

No. 97796

Know all Men by these Presents:

That UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, and having its principal office at the City of Baltimore, in the State of Maryland, does hereby constitute and appoint Gerald A. Dahle, John J. Pikel, Donald T. Belbutowski and Diane T. Green

of the City of Fort Wayne, State of Indiana,
its true and lawful attorneys in and for the State of Indiana

for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said UNITED STATES FIDELITY AND GUARANTY COMPANY, through us, its Board of Directors, hereby ratifies and confirms all and whatsoever ~~done~~ anyone of the said Gerald A. Dahle and the said John J. Pikel and the said Donald T. Belbutowski and the said Diane T. Green

may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said UNITED STATES FIDELITY AND GUARANTY COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its Vice-President and Assistant Secretary, this 27th day of November, A. D. 1985

UNITED STATES FIDELITY AND GUARANTY COMPANY.

(Signed) By W. Bradley Wallace
Vice-President.

(SEAL) (Signed) John A. Umberger
Assistant Secretary.

STATE OF MARYLAND, }
BALTIMORE CITY, } ss:

On this 27th day of November, A. D. 1985, before me personally came W. Bradley Wallace, Vice-President of the UNITED STATES FIDELITY AND GUARANTY COMPANY and John A. Umberger, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said that they, the said W. Bradley Wallace and John A. Umberger were respectively the Vice-President and the Assistant Secretary of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order as Vice-President and Assistant Secretary, respectively, of the Company.

My commission expires the first day in July, A. D. 1986.

(SEAL) (Signed) Margaret M. Hurst
Notary Public.

STATE OF MARYLAND, }
BALTIMORE CITY, } Sect.

I, Sandra E. Banks, Clerk of the Circuit Court for Baltimore City, which Court is a Court of Record, and has a seal, do hereby certify that Margaret M. Hurst, Esquire, before whom the annexed affidavits were made, and who has thereto subscribed his name, was at the time of so doing a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and sworn and authorized by law to administer oaths and take acknowledgment, or proof of deeds to be recorded therein. I further certify that I am acquainted with the handwriting of the said Notary, and verily believe the signature to be his genuine signature.

In Testimony Whereof, I hereto set my hand and affix the seal of the Circuit Court for Baltimore City, the same being a Court of Record, this 27th day of November, A. D. 1985

(SEAL) (Signed) Sandra E. Banks
Clerk of the Circuit Court for Baltimore City.

Admn. Appr. _____

DIGEST SHEET

S-86-08-16

TITLE OF ORDINANCE Contract for Res. 6048-86 - Headwall & Backwater Gate at Gruber DitchDEPARTMENT REQUESTING ORDINANCE Board of Public Works & Safety

SYNOPSIS OF ORDINANCE The Contract for Res. 6048-86 is for the construction
of Headwall and Backwater Gate at Gruber Ditch in Vesey Avenue Addition.
John Dehner, Inc., is the Contractor.

PRIOR APPROVAL REQUESTED 8/12/86

EFFECT OF PASSAGE Same as above

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$20,695.50

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. S-86-08-16

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS
REFERRED AN (ORDINANCE) (~~XXXXXXXXXX~~ (RESOLUTION)) approving the Contract
for Resolution #6048-86 - Headwall & Backwater Gate at Gruber Ditch,
between the City of Fort Wayne, Indiana and John Dehner, Inc., in
connection with the Board of Public Works and Safety

HAVE HAD SAID (ORDINANCE) (~~XXXXXXXXXX~~ (RESOLUTION)) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)
(~~RESOLUTION~~)

YES

NO

Paul M. Burns
PAUL M. BURNS
CHAIRMAN

Thomas C. Henry
THOMAS C. HENRY
VICE CHAIRMAN

Ben A. Eisbart
BEN A. EISBART

James S. Stier
JAMES S. STIER

Mark E. GiaQuinta
MARK E. GiaQUINTA

CONCURRED IN F-26-16.

SANDRA E. KENNEDY
CITY CLERK